

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

EMANUEL MITCHELL,

Plaintiff,

v.

GEO GROUP, INC., et al.,

Defendants.

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Case No. CIV-19-40-G

ORDER

Plaintiff, a prisoner appearing pro se, filed this action on January 15, 2019, seeking relief under 42 U.S.C. § 1983. *See* Compl. (Doc. No. 1). Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings.

On January 16, 2019, Judge Erwin granted Plaintiff's Application for Leave to Proceed *In Forma Pauperis*, ordering Plaintiff to pay an initial partial filing fee of \$26.26 by February 2, 2019. *See* Order of Jan. 16, 2019 (Doc. No. 5) at 1-2. Plaintiff was advised that his failure to comply with the Order could result in dismissal of this action without prejudice. When Plaintiff failed to pay the partial filing fee by the specified deadline, Judge Erwin entered a Report and Recommendation that this action be dismissed without prejudice. *See* R. & R. (Doc. No. 6) at 1-3. Judge Erwin advised Plaintiff of his right to object and directed that any objection be filed on or before February 25, 2019. Judge Erwin further advised Plaintiff that any failure to object would result in waiver of the right to appellate review. *Id.*

To date, Plaintiff has not filed an objection or submitted his initial partial filing fee. On February 27, 2019, however, Plaintiff filed an account statement and an affidavit

declaring his inability to pay the fees associated with this action. *See* Doc. Nos. 7, 7-1. Plaintiff also submitted an affidavit in which he requests an extension of time “to move forward” with this action. Doc. No. 7-1 at 6. The Court liberally construes Plaintiff’s statement as a request for extension of time to submit his initial partial payment of \$26.26. Further, as Plaintiff’s submission suggests that he may have some confusion regarding his payment requirements, Plaintiff is advised that he has already been granted leave to proceed *in forma pauperis* and that, as explained by Judge Erwin in his January 16, 2019 Order, Plaintiff is nonetheless required to pay the full \$350.00 filing fee in installments, if this case proceeds. *See* Order of Jan. 16, 2019; 28 U.S.C. § 1915(b)(1)-(2).

IT IS THEREFORE ORDERED that Judge Erwin’s Report and Recommendation (Doc. No. 6) is ADOPTED. It is further ORDERED that Plaintiff is granted an extension to **April 2, 2019**, to make his initial partial payment of \$26.26. Plaintiff is ADVISED that if he pays the initial partial filing fee of \$26.26 on or before April 2, 2019, the Court will continue to collect monthly payments until the full \$350.00 filing fee has been received. If Plaintiff fails to pay the initial partial filing fee of \$26.26 on or before April 2, 2019, this action will be dismissed without prejudice to refile, and no fees or costs will be imposed or collected.

IT IS SO ORDERED this 20th day of March, 2019.



CHARLES B. GOODWIN
United States District Judge